

**Proposed Substitute
Bill No. 6918**

January Session, 2023

LCO No. 6482

**AN ACT CONCERNING ERASURE OF CRIMINAL HISTORY
RECORDS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (e) of section 54-142a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July 1,*
3 2023):

4 (e) (1) (A) Except as provided in [subdivision (2) and subdivision]
5 subdivisions (2) and (3) of this subsection, whenever any person has
6 been convicted in any court of this state of a classified or unclassified
7 misdemeanor offense or a motor vehicle violation for which a maximum
8 term of imprisonment of not more than one year could have been
9 imposed, or a class D or E felony or an unclassified felony offense
10 [carrying a] for which a maximum term of imprisonment of not more
11 than five years could have been imposed or a motor vehicle violation
12 for which a maximum term of imprisonment greater than one year and
13 not more than five years could have been imposed, any police or court
14 record and record of the state's or prosecuting attorney or the
15 prosecuting grand juror pertaining to such conviction, or any record
16 pertaining to court obligations arising from such conviction held by the
17 Board of Pardons and Paroles shall be erased as follows: [(A)] (i) For any
18 classified or unclassified misdemeanor offense or a motor vehicle
19 violation for which a maximum term of imprisonment of not more than
20 one year could have been imposed, such records shall be erased seven
21 years from the date on which the court entered the convicted person's
22 most recent judgment of conviction [(i)] (I) by operation of law, if such

23 offense occurred on or after January 1, 2000, or [(ii)] (II) upon the filing
24 of a petition on a form prescribed by the Office of the Chief Court
25 Administrator, if such offense occurred prior to January 1, 2000; and
26 [(B)] (ii) for any class D or E felony, [or an] unclassified felony offense
27 [carrying a] for which a maximum term of imprisonment of not more
28 than five years could have been imposed or a motor vehicle violation
29 for which a maximum term of imprisonment in excess of one year and
30 not more than five years could have been imposed, such records shall
31 be erased ten years from the date on which the court entered the
32 convicted person's most recent judgment of conviction [(i)] (I) by
33 operation of law, if such offense occurred on or after January 1, 2000, or
34 [(ii)] (II) upon the filing of a petition on a form prescribed by the Office
35 of the Chief Court Administrator, if such offense occurred prior to
36 January 1, 2000.

37 (B) For purposes of subparagraph (A) of this subdivision, the
38 classification of the offense, and the maximum sentence that could have
39 been imposed for a conviction of such offense, shall be determined
40 based on the law that was in effect at the time the offense was
41 committed.

42 (2) Convictions for the following offenses shall not be eligible for
43 erasure pursuant to this subsection:

44 (A) Any conviction, on or after January 1, 2000, designated as a family
45 violence crime, as defined in section 46b-38a;

46 (B) Any conviction for an offense that is a nonviolent sexual offense
47 or a sexually violent offense, each as defined in section 54-250; or

48 (C) Any conviction for [a class D felony offense that is] a violation of
49 section 29-33, 53a-60a, 53a-60b, 53a-60c, 53a-61a, 53a-64bb, 53a-64cc, 53a-
50 72a, 53a-90a, 53a-103a, 53a-181c, 53a-191, 53a-196, 53a-196d, 53a-196f,
51 53a-211, 53a-212, 53a-216, 53a-217, 53a-217a, 53a-217c, 53a-322, 53a-323,
52 54-251, 54-252, 54-253 or 54-254 or subdivision (1) of subsection (a) of
53 section 53a-189a. [; or

54 (D) Any conviction for a class A misdemeanor offense that is a
55 violation of section 53a-61a, 53a-64cc or 53a-323.]

56 (3) The provisions of subdivision (1) of this subsection shall not apply
57 to any conviction for any offense until the defendant; [has completed
58 serving the sentence imposed for any offense or offenses for which the
59 defendant has been convicted.]

60 (A) Has completed serving any period of incarceration, parole,
61 special parole, medical parole, compassionate parole or transitional
62 supervision associated with any sentence for such offense and any other
63 offense for which the defendant has been convicted on or after January
64 1, 2000, in this state;

65 (B) Has completed serving any period of probation for any sentence
66 for any crime or crimes for which the defendant has been convicted on
67 or after January 1, 2000, in this state; and

68 (C) Is not the subject of any pending state criminal charge in this state.

69 (4) If a person has been convicted of a violation of subsection (c) of
70 section 21a-279 prior to October 1, 2015, such conviction shall not be
71 considered as a most recent offense when evaluating whether a
72 sufficient period of time has elapsed for an offense to qualify for erasure
73 pursuant to this subsection.

74 (5) Nothing in this subsection shall limit any other procedure for
75 erasure of criminal history record information, as defined in section 54-
76 142g, or prohibit a person from participating in any such procedure,
77 even if such person's criminal history record information has been
78 erased pursuant to this section.

79 (6) Nothing in this subsection shall be construed to require the
80 Department of Motor Vehicles to erase criminal history record
81 information on an operator's driving record. When applicable, the
82 Department of Motor Vehicles shall make such criminal history record
83 information available through the Commercial Driver's License

84 Information System.

85 (7) Nothing in this subsection shall terminate a defendant's obligation
86 to register as a person convicted of an offense committed with a deadly
87 weapon pursuant to section 54-280a, a felony for a sexual purpose
88 pursuant to section 54-254 or a criminal offense against a victim who is
89 a minor pursuant to section 54-251.

90 (8) No erasure under this subsection shall be construed to terminate
91 a defendant's obligation to abide by a standing criminal protective order
92 imposed under section 53a-40e or terminate a defendant's obligation to
93 pay any unremitted fine imposed as part of the court's sentence.

94 (9) Notwithstanding any provision of this section and the provisions
95 of section 54-142c, any record required to substantiate any defendant's
96 conviction shall be available to law enforcement, the court and the
97 state's attorney for the purpose of (A) verifying such defendant's
98 obligation to register pursuant to section 54-251, 54-254 or 54-280a and
99 prosecuting any such defendant for violating any provision of such
100 sections until the expiration of such registration requirement, and (B)
101 verifying such defendant's obligation to abide by any standing criminal
102 protective order imposed under section 53a-40e and prosecuting any
103 such defendant for a violation of section 53a-223a until the expiration of
104 any such standing criminal protective order.

105 Sec. 2. Subsection (i) of section 54-142a of the general statutes is
106 repealed and the following is substituted in lieu thereof (*Effective July 1,*
107 *2023*):

108 (i) [The] (1) Except as provided in subdivision (2) of this subsection,
109 the provisions of this section shall not apply to any police or court
110 records or the records of any state's attorney or prosecuting attorney
111 [with respect to any information or indictment containing] referencing
112 more than one count [(1)] of the criminal case or, in the case of a police
113 record, referencing more than one defendant (A) while the criminal case
114 is pending, or [(2)] (B) when the criminal case is disposed of unless and

115 until all counts on such criminal case and, in the case of a police record,
116 on the relevant criminal cases for all referenced defendants are entitled
117 to erasure in accordance with the provisions of this section. [, except that
118 when the]

119 (2) When a criminal case is disposed of, qualified electronic records
120 or portions of qualified electronic records released to the public that
121 reference a charge that would otherwise be entitled to erasure under this
122 section shall be erased in accordance with the provisions of this section.

123 (3) Nothing in this section shall require the erasure of any information
124 contained in the registry of protective orders established pursuant to
125 section 51-5c, published memoranda of decision of the Superior Court
126 or any records of the Appellate Court or Supreme Court related to
127 matters considered by such courts.

128 (4) For the purposes of this subsection, ["electronic record"] "qualified
129 electronic record" means any police or court record or the record of any
130 state's attorney or prosecuting attorney that is an electronic record, as
131 defined in section 1-267, or a [computer] printout of any such electronic
132 record, but does not include any portion of a police record that is a
133 narrative description, including, but not limited to, any such description
134 contained in an investigative report.

135 Sec. 3. Subsection (l) of section 54-142a of the general statutes is
136 repealed and the following is substituted in lieu thereof (*Effective July 1,*
137 *2023*):

138 (l) For the purposes of this section, "court records" shall not include a
139 record or transcript of the proceedings made or prepared by an official
140 court reporter, assistant court reporter or monitor or any audio or video
141 recording of any court proceeding.

142 Sec. 4. Section 54-142e of the general statutes is repealed and the
143 following is substituted in lieu thereof (*Effective July 1, 2023*):

144 (a) Notwithstanding the provisions of subsection (g) of section 54-

145 142a and section 54-142c, with respect to any person, including, but not
146 limited to, a consumer reporting agency as defined in subsection (i) of
147 section 31-51i, or a background screening provider or similar data-based
148 service or company, that purchases criminal matters of public record, as
149 defined in said subsection (i), from the Judicial Department or any
150 criminal justice agency pursuant to subsection (b) of section 54-142g, the
151 department or such criminal justice agency shall make available to such
152 person information concerning such criminal matters of public record
153 that have been erased pursuant to section 54-142a, as amended by this
154 act. Such information may include docket numbers or other information
155 that permits the person to identify and permanently delete records that
156 have been erased pursuant to section 54-142a, as amended by this act.

157 (b) Each person, including, but not limited to, a consumer reporting
158 agency or background screening provider or similar data-based service
159 or company, that has purchased records of criminal matters of public
160 record from the Judicial Department or any criminal justice agency
161 shall, prior to disclosing such records, (1) purchase from the Judicial
162 Department or such criminal justice agency, on a monthly basis or on
163 such other schedule as the Judicial Department or such criminal justice
164 agency may establish, any updated criminal matters of public record or
165 information available for the purpose of complying with this section,
166 and (2) update its records of criminal matters of public record to
167 permanently delete such erased records not later than thirty calendar
168 days after receipt of information on the erasure of criminal records
169 pursuant to section 54-142a, as amended by this act. Such person shall
170 not further disclose such erased records.

171 (c) If any consumer reporting agency, background screening provider
172 or similar data-based service or company discloses an erased record
173 after thirty calendar days from the date such agency, provider, service
174 or company received notice pursuant to subsection (a) of this section
175 that such record had been erased, the Attorney General may send notice
176 ordering such agency, provider, service or company to remove such
177 erased record from any such disclosure not later than five business days

178 following receipt of such order. If such agency, provider, service or
179 company further fails to remove such erased record from any such
180 disclosure, an action for damages may be brought under chapter 735a.

181 Sec. 5. (NEW) (*Effective from passage*) If the automated processes
182 required to be developed under section 54-142t of the general statutes,
183 as amended by this act, have not marked a police or court record or the
184 record of any state's attorney or prosecuting attorney erased, or no
185 petition has been filed seeking to have such record erased, as of July 1,
186 2023, the provisions of section 54-142a of the general statutes, as
187 amended by this act, shall determine (1) whether such record is eligible
188 or not eligible for erasure, and (2) the eligibility of defendants who must
189 file a petition for the erasure of records, and not the provisions of section
190 54-142a of the general statutes, revision of 1958, revised to January 1,
191 2023.

192 Sec. 6. Section 54-142t of the general statutes is repealed and the
193 following is substituted in lieu thereof (*Effective from passage*):

194 (a) The Department of Emergency Services and Public Protection, in
195 consultation with the Judicial Branch and the Criminal Justice
196 Information System Governing Board established pursuant to section
197 54-142q, shall develop and implement automated processes for erasure
198 pursuant to section 54-142a, as amended by this act.

199 (b) The [department may, within available appropriations,
200 disseminate information, including posting] Commissioner of
201 Emergency Services and Public Protection shall, not later than January
202 1, 2024, post information on [its] an Internet web site operated by the
203 department, regarding records that are subject to erasure under the
204 provisions of this section, including a list of any section of the general
205 statutes for which a violation of such section may be subject to erasure
206 pursuant to subsection (e) of section 54-142a, as amended by this act.
207 The commissioner shall annually review, and if necessary, update such
208 list.

209 (c) Nothing in this section shall be construed to require the
210 destruction of paper records.

211 (d) Nothing in the provisions of sections 46a-80a to 46a-80m,
212 inclusive, or sections 8-265c, 8-315, 10a-6, 31-51i, 38a-358, 38a-447, 46a-
213 51, 46a-74, 46a-79, 46a-80 and 46a-81, each as amended by public acts 21-
214 32, 21-33 and 22-26, as applicable, shall be construed to make the state,
215 any state agency, any municipality or any person liable for any action
216 taken on the basis of criminal history record information required to be
217 erased or deemed erased by operation of law by the provisions of such
218 public acts if:

219 (1) Such action is taken in good faith reliance on such criminal history
220 record information;

221 (2) Such criminal history record information has not yet been marked
222 as erased by the automated system required under this section, or, in the
223 case of a municipality or other person, such erasure marking has not
224 been communicated to such municipality or other person; and

225 (3) Such action is taken before January 1, 2024.

226 (e) No person shall have any claim against the state or any state
227 agency for compensation or payment for failure to erase a record
228 pursuant to the provisions of sections 54-142a and 54-142t, as amended
229 by this act, and public acts 21-32, 21-33 and 22-26, before January 1, 2024.

230 (f) On and after January 1, 2024, nothing in the provisions of sections
231 46a-80a to 46a-80m, inclusive, or sections 8-265c, 8-315, 10a-6, 31-51i,
232 38a-358, 38a-447, 46a-51, 46a-74, 46a-79, 46a-80 and 46a-81, each as
233 amended by public acts 21-32, 21-33 and 22-26, as applicable, shall be
234 construed to make the state, any state agency, any municipality or any
235 person liable for any action taken on the basis of criminal history record
236 information required to be erased or deemed erased by operation of law
237 by the provisions of such public acts if within the immediate thirty-day
238 period after such records should have been marked as erased:

239 (1) Such action is taken in good faith reliance on such criminal history
240 record information; and

241 (2) Such criminal history record information has not yet been marked
242 as erased by the automated system required under this section, or, in the
243 case of a municipality or other person, such erasure marking has not
244 been communicated to such municipality or other person.

245 (g) On and after January 1, 2024, if (1) a person subject to such record
246 information described in subdivision (2) of subsection (f) of this section
247 notifies the Commissioner of Emergency Services and Public Protection
248 at least thirty days after such marking should have been made or so
249 communicated that such marking has not been made or so
250 communicated, and (2) after ninety days following such notification,
251 such marking has not been made or so communicated, such person may
252 have a claim against the state or any state agency for compensation or
253 payment for failure to erase a record pursuant to the provisions of
254 sections 54-142a and 54-142t, as amended by this act, and public acts 21-
255 32, 21-33 and 22-26.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2023</i>	54-142a(e)
Sec. 2	<i>July 1, 2023</i>	54-142a(i)
Sec. 3	<i>July 1, 2023</i>	54-142a(l)
Sec. 4	<i>July 1, 2023</i>	54-142e
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	54-142t